

DRAFT REVISIONS TO 17.40 (RIGHT TO FARM)

Based on the Draft Revisions to Titles 16 and 17 of the Lewis County Code

Chapter 17.40 RIGHT TO FARM

Sections:

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17.40.010 Title.

This chapter shall be cited as the Lewis County right to farm chapter. [Ord. 1197 §3, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1119 § 1, 1991]

17.40.020 Purpose.

It is the purpose of this chapter to promote and protect agriculture and farm forestry in the Agricultural Resource Lands (ARL), Forest Resource Lands (FRL), and Rural Development District (RDD) zones through the enhancement, protection and perpetuation of the ability of farmers to conduct farming and forestry in accordance with RCW [7.48.305](#).

(1) Where nonresource land uses extend into natural resource areas or exist side-by-side, natural resource management operations are frequently the subjects of nuisance complaints and on occasion have been forced to cease or curtail operations. Such nuisance complaints discourage investments in natural resource land improvements to the detriment of adjacent natural resource land uses and the economic viability of the county's resource industry as a whole. It is the purpose and intent of this chapter to reduce the loss of its natural resource lands by limiting and defining the circumstances under which natural resource lands management operations may be considered a nuisance. This chapter is not to be construed as in any way modifying or abridging county, state or federal laws; rather it is only to be utilized in the interpretation and enforcement of the provisions of this code and county regulations.

(2) An additional purpose of this chapter is to promote a good neighbor policy between natural resource lands and nonresource land property owners by advising purchasers, [developers](#) and users of property adjacent to or near natural resource land management operations of the inherent potential problems associated with such purchase of ~~the property~~ [residence](#), including, but not limited to, the use of chemicals, or from spraying, pruning, harvesting, or mineral extraction with associated activities, which occasionally generates traffic, dust, smoke, noise, odor and the hours of operation that may accompany natural resource land management operations. It is intended that through mandatory disclosures purchasers and users will better understand the impact of living near natural resource lands and be

prepared to accept attendant conditions as the natural result of living in or near natural resource lands and rural areas.

(3) An additional purpose of this chapter is to provide notice, through a disclosure statement, ~~a-of~~ the potential incompatibilities, inconveniences and discomforts that may arise from natural resource land management activities.

~~(4) The following language indicating proximity, within 1,320 feet, to designated agricultural land shall be required on all final plats, short plats, large lot subdivisions, and binding site plans or building permits approved by Lewis County within the agricultural resource areas. **HANDLED IN 17.30.390**~~

~~(5)* In addition, at the time of building permit issuance, applicants shall be required to sign and record with the county auditor a statement acknowledging that their property is located within 1,320 feet of designated agricultural area and that if consistent with good and generally accepted agricultural and management practices and established prior to surrounding activities, are presumed to be reasonable and shall not be found to constitute a nuisance unless the activity has a substantial adverse effect on the public health and safety.~~

~~(i) — (6)* The language required is as follows:~~

~~NOTICE AND COVENANT: The subject property is within or near land designated for long term commercially significant agricultural activities and subject to a variety of activities that may not be compatible with residential development for certain periods extending beyond the normal workday and/or work week. In addition to other activities these may include noise, dust, smoke, visual impacts, and odors resulting from harvesting, planting, application of fertilizers, pesticides, animal husbandry, and associated agricultural activities. When performed in accordance with best management practices, these agricultural activities are to be expected, consented to by the developers of this property, their heirs, successors, and assigns, and shall not be subject to legal action or public nuisance (Refer to the Lewis County Right to Farm Ordinance No. 1119).~~

~~(7) Where the approval is a plat pursuant to LCC 17.30.660(1), the notice shall be a covenant running with the land binding all lots within the subdivision. [Ord. 1197 §3, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1119 § 2, 1991]~~

~~*Code reviser's note: Ord. 1197 adopted these provisions as well as duplicate provisions in LCC 17.40.050 without reference to each other.~~

17.40.030 Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

(1) “Agricultural activity” means a condition or activity which occurs on a farm in connection with the commercial production of farm and timber products and includes, but is not limited to, marketed produce at roadside stands or farm markets; noise; odors; dust; fumes; smoke; operation of machinery and pumps; movement, including but not limited to use of current county roads and ditches, streams, rivers, canals, and drains, and use of water for agricultural activities; ground and aerial application of seed, fertilizers, conditioners and plant protection products; employment and use of labor; roadway movement of equipment and livestock; protection from damage by wildlife; prevention of trespass; construction and maintenance of buildings, fences, roads, bridges, ponds, drains, waterways and similar features and maintenance of stream banks and watercourses; and conversion from one agricultural activity to another.

(2) “Farm” means the land, buildings, manure lagoons, ponds, freshwater culturing and growing facilities, and machinery used in commercial production of farm products.

(3) “Farmland” means land or freshwater ponds devoted primarily to the production, for commercial purposes, of livestock, freshwater aquaculture or other agricultural commodities.

(4) “Farm product” means those plants and animals (and the products thereof) useful to human beings which are produced on farms and include, but are not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, livestock including breeding, grazing and feed lots, fruits, vegetables, flowers, seeds, grasses, nursery products, trees and forest products including Christmas trees and timber, freshwater fish and fish products, rabbits, apiaries, equine and similar products, or any other product which incorporates the use of food, feed, fiber or fur.

(5) “Generally accepted agricultural and management practices” or “best management practices” means sound, economically feasible farming techniques and practices as defined and/or recommended by the American Society of Agronomy, United States Department of Agriculture Soil Conservation Service, Washington State Cooperative Extension Service, and other professional or industrial agricultural organizations.

(6) “Person” means an individual, firm, copartnership, association, corporation, or other legal entity, including any federal, state, or local municipal corporation, agency, or special purpose district. [Ord. 1197 §3, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1119 § 3, 1991]

17.40.040 Policy on agricultural nuisances.

No agricultural activity, operation, facility or appurtenances thereof shall be or become a nuisance as defined in Chapter [1.22](#) LCC, regardless of past or future changes in the surrounding area’s land use or zoning designation, when conducted or maintained for commercial purposes, and in a manner consistent with current best management practices, not superseding local, state or federal regulations and involving uses allowed under the Agriculture Resource Land (ARL) and Rural Development District (RDD) zones.

(1) Notwithstanding any other provision in this chapter, agricultural activities conducted on ARL or RDD farmlands, if consistent with good and generally accepted agricultural and management practices and

established prior to surrounding activities, are presumed to be reasonable and shall not be found to constitute a nuisance unless the activity has a substantial adverse effect on the public health and safety.

(2) If that agricultural activity is undertaken in conformity with generally accepted agricultural and management practices and with federal, state and local laws and regulations and health department guidelines, it is presumed to be good agriculture practice and not adversely affecting the public health and safety.

(3) A farm operation shall not be restricted in its activities to time of day or days of the week, but shall be conducted according to generally accepted agricultural and management practices. [Ord. 1197 §3, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1119 § 4, 1991]

17.40.050 Disclosure.

Disclosure of proximity to agricultural activities shall occur in accordance with RCW 64.06.022 and the standards in LCC 17.30.380.

~~(1) The statement set forth in subsection (2) of this section shall be used under the following circumstances and in the following manners:~~

~~(a) Lewis County shall mail a copy of the disclosure, with an explanatory informational attachment, to all landowners whose parcel(s) lie within an area or within 500 feet of an area designated as a natural resource land beginning in the year 1999 and every three years thereafter; provided, that no liability shall attach to Lewis County for any actions or omissions under this subsection.~~

~~(b) Upon transfer of real property by sale, exchange, gift, real estate contract, lease with an option to purchase, any other option to purchase, ground lease coupled with improvements, or any other means, the seller shall be required to record with the county auditor a statement containing the language set forth in subsection (3) of this section in conjunction with the deed conveying the real property; provided, however, that the real property is located within one mile of the Agriculture Resource Land (ARL) or Rural Development District (RDD) zones in compliance with RCW 7.48.305 and 64.06.022, the Washington Right to Farm Act.~~

~~(c) The following shall constitute the disclosure required by this section:~~

~~It is important that people choosing to live within or adjacent to agricultural land be aware of the inevitability of agricultural activities and understand the necessary activities that are required to sustain agricultural use of the land. The following language indicating proximity, within 1,320 feet, to designated agricultural land shall be required on all final plats, short plats, large lot subdivisions, and binding site plans or building permits approved by Lewis County within the agricultural resource areas:~~

~~(2)* In addition, at the time of building permit issuance, applicants shall be required to sign and record with the county auditor a statement acknowledging that their property is located within 1,320 feet of designated agricultural area and that if consistent with good and generally accepted agricultural and management practices and established prior to surrounding activities, are presumed to be reasonable and shall not be found to constitute a nuisance unless the activity has a substantial adverse effect on the public health and safety.~~

~~(3)* The language required is as follows:~~

~~NOTICE AND COVENANT: The subject property is within or near land designated for long-term commercially significant agricultural activities and subject to a variety of activities that may not be compatible with residential development for certain periods extending beyond the normal workday and/or work week. In addition to other activities these may include noise, dust, smoke, visual impacts, and odors resulting from harvesting, planting, application of fertilizers, pesticides, animal husbandry, and associated agricultural activities. When performed in accordance with best management practices, these agricultural activities are to be expected, consented to by the developers of this property, their heirs, successors, and assigns, and shall not be subject to legal action or public nuisance (Refer to the Lewis County Right-to-Farm Ordinance No. 1119).~~

~~(4) Where the approval is a plat pursuant to LCC 17.30.660(1), the notice shall be a covenant running with the land binding all lots within the subdivision.~~

~~(5)** Notwithstanding any other provision in this chapter, agricultural activities conducted on ARL or RDD farmlands, if consistent with good and generally accepted agricultural and management practices and established prior to surrounding activities, are presumed to be reasonable and shall not be found to constitute a nuisance unless the activity has a substantial adverse effect on the public health and safety.~~

~~(6)** If that agricultural activity is undertaken in conformity with generally accepted agricultural and management practices and with federal, state and local laws and regulations and health department guidelines, it is presumed to be good agriculture practice and not adversely affecting the public health and safety.~~

~~(7)** A farm operation shall not be restricted in its activities to time of day or days of the week, but shall be conducted according to generally accepted agricultural and management practices. [Ord. 1197 §3, 2007]~~

~~*Code reviser's note: Ord. 1197 adopted these provisions as well as duplicate provisions in LCC 17.40.020 without reference to each other.~~

~~**See also LCC 17.40.040.~~

17.40.060 Recommended practices.

(1) To minimize possible adverse environmental effects, those engaged in agricultural activities shall apply chemical products in accordance with all label instructions and shall abide by all applicable state and federal laws and regulations as well as with generally accepted agricultural and management practices.

(2) A farm or farm operation shall not be found to be a public or private nuisance if the farm or farm operation conforms to generally accepted agricultural and management practices, recognizing that those practices may be subject to varying conditions including, but not limited to, geographic location, weather, soil types and conditions, type of crop or livestock, and management systems. [Ord. 1197 §3, 2007; Ord. 1170B, 2000; Ord. 1157, 1998; Ord. 1119 § 5, 1991. Formerly 17.40.050]